



DEPARTMENT OF THE AIR FORCE

Air Force Legal Operations Agency

Joint Base Andrews, Maryland

AFLOA/JACC

1500 W. Perimeter Road, Suite 1700
Joint Base Andrews, MD 20762

AUG 07 2014

Wendy R. Daniels
307 Church Street
Pinehurst, GA 31070-0232

Re: Medical Malpractice Claim filed on behalf of Clarissa D. Daniels
Robins AFB Claim No. 13-22671

Dear Ms. Daniels

I have considered the claim you filed on behalf of your daughter, Clarissa, under the provisions of the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671-2680, alleging medical providers at Robins Air Force Base, GA, were negligent in the delivery of your daughter in 1987. After a careful review of the facts and law, I must deny your claim.

One reason for this decision is that after an extensive review of the care you received during the delivery of your child by our expert in obstetrics, he opined that the standard of care was met in all aspects of the delivery. Based on the few military medical records that had been archived, management of your labor was uneventful. The first and second stages of labor were normal, and your daughter was delivered spontaneously. Her APGAR scores at 1 and 5 minutes were 8 and 9, respectively, which is considered normal. Her respirations were started spontaneously and she started crying, with a lusty cry, on her own—all signs which indicate a healthy newborn. While the medical records indicate her bilirubin was elevated, this was timely diagnosed and appropriately treated with phototherapy, which subsequently brought the bilirubin down to a therapeutic range. In reviewing the medical records you provided, and paying particular attention to the entries made by your daughter's civilian treating providers, our expert opines that there does not appear to be any etiology for your daughter's neurologic or physical delays.

Another reason for this decision is that your claim is not timely. Under the Federal Tort Claims Act a claim is forever barred unless it is presented within two years from the date the claimant knows or should have known of the injury and its potential cause. As you noted in the narrative you provided, your claim was not filed within two years after the alleged negligence occurred. Based on the telephonic interview that was conducted during the investigation of the claim, it is evident you were aware of the alleged injuries to your daughter and what you believe to be the cause of those injuries in 1987, at the time of your daughter's delivery. Therefore, your claim, filed over 25 years later, is not timely.

I regret that you remain dissatisfied with the care you received during the delivery of your daughter at Robins Air Force Base. However, in light of the foregoing facts and law, and without evidence of negligence, I cannot pay your claim.

This is the final denial of your claim. I am required to inform you that if you are dissatisfied with this decision, you may file suit in an appropriate United States District Court, not later than six months after the date of the mailing of this letter.

Sincerely

A handwritten signature in cursive script, appearing to read "Hildegard Conte Perlstein".

HILDEGARDE CONTE PERLSTEIN

Chief, Medical Law Branch

Claims and Tort Litigation Division